

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ROBERT ANNABEL,

Plaintiff,

No. 14-10244

v.

District Judge Arthur J. Tarnow  
Magistrate Judge R. Steven Whalen

JACK FROST, ET AL.,

Defendants.

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**ORDER**

Before the Court is Plaintiff's Motion to Compel U.S. Marshal to Serve Subpoena [Doc. #120]. Specifically, he requests that the Marshal serve a document subpoena on non-party Zoe Keller in Bismark, North Dakota. He states that "Zoe Keller" is a pseudonym, and he does not know the actual name of the person. Nevertheless, he states that he sent one "Zoe Keller" 10 pages of documents for storage, and has been unable to retrieve those documents.

On December 28, 2017, the Court provisionally granted Plaintiff's motion for appointment of counsel. *See Order* [Doc. #153]. *Pro bono* counsel, when appointed, can likely more efficiently obtain copies of the documents that Plaintiff seeks, including service of subpoenas, including a subpoena or other request to the MDOC to obtain the grievance documentation.<sup>1</sup> The prudent course of action, then, is to deny Plaintiff's

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<sup>1</sup> In *Billman v. Indiana Dept. of Corrections* 56 F.3d 785, 790 (7<sup>th</sup> Cir. 1995), the issue was the identification of a defendant whose name the plaintiff did not know, and how the court might discharge its duty to assist a *pro se* inmate in making the necessary investigation. Judge Posner stated, "One possibility is for the judge to request a lawyer...to represent the prisoner for the limited purpose of determining whether the complaint can be amended to name as defendant anyone who there is reason to believe

motion without prejudice at this time.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Compel U.S. Marshal to Serve Subpoena [Doc. #120] is DENIED WITHOUT PREJUDICE.

Dated: January 25, 2018

s/R. Steven Whalen  
R. STEVEN WHALEN  
U.S. MAGISTRATE JUDGE

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**CERTIFICATE OF SERVICE**

I hereby certify on January 25, 2018 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to non-registered ECF participants on January 25, 2018.

s/Carolyn M. Ciesla  
Case Manager for the  
Honorable R. Steven Whalen

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inflicted an actionable wrong on the plaintiff.” In Mr. Annabel’s case, of course, the Court has provisionally appointed counsel for purposes of handling the entire case.

Plaintiff might also himself request copies of his grievance documentation from the MDOC.